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SERVICE DATE – NOVEMBER 1, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42180

EVERGY, INC., EVERGY METRO, INC., AND EVERGY KANSAS CENTRAL, INC.

v.

BNSF RAILWAY COMPANY

Decided: November 1, 2024

On January 31, 2024, Evergy, Inc., Evergy Metro, Inc., and Evergy Kansas Central, Inc. (collectively, Complainants), filed a complaint against BNSF Railway Company (BNSF), alleging that BNSF has violated its obligations under 49 U.S.C. §§ 11101(a), 10702(2), and 11121(a)(1). The complaint also seeks an order declaring the scope of BNSF's service obligations to Complainants. BNSF filed its answer on May 20, 2024.¹

On September 27, 2024, BNSF filed a motion to compel Complainants to produce and disclose certain information in response to BNSF's written discovery requests and asking the Board to extend the discovery and evidence schedule. Complainants replied on October 16, 2024. On October 23, 2024, BNSF filed a "reply in support of its motion to compel," to which Evergy responded by letter filed October 25, 2024. BNSF's motion to compel remains pending before the Board.

Pursuant to the procedural schedule in this case, discovery is scheduled to close on November 1, 2024.² Given the pending motion to compel, the deadline for the close of discovery will be tolled pending further order of the Board. All other deadlines remain unchanged.

It is ordered:

1. The deadline for the close of discovery is tolled pending further order of the Board. All other deadlines remain unchanged.

2. This decision is effective on the date of service.

By the Board, Jonathon P. Binet, Acting Director, Office of Proceedings.

¹ On May 17, 2024, BNSF filed a motion to dismiss the declaratory order count of the complaint. The motion to dismiss will be addressed in a separate decision.

² See Evergy, Inc. v. BNSF Ry., NOR 42180, slip op. at 2 (STB served June 10, 2024).